UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,397	01/28/2002	Michael Wayne Brown	AUS920010520US1	4747

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EXAMINER
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ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/058,397	BROWN ET AL.
	Examiner	Art Unit
	Ting Zhou	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _26 November 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-27_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-27_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _10/18/04_.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The amendment filed on 26 November 2004 have been received and entered. Claims 1-27 as amended are pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claims 1, 10 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "wherein said percentage of usage is independent of use of said system resource associated with displaying said at least one displayable object" is not positively recited in the specification of the present application. On page 14 of the remarks filed by the applicant, applicants state that the amendments to the claims finds basis in the specification at page 13, lines 1-7, which states "As depicted, each of windows 52, 54 and 56 are set at a particular level of transparency. In the present example, window 52 is set at 0% transparency, while window 54 is set at 30% transparency and window 52 set at 50% transparency. The levels of transparency associated with the windows may be reflective of multiple factors including, but not limited to, recent use, resource utilization, and other

measurable factors." However, the cited passage merely states that a graphical characteristic may

reflect resource utilization, and does not positively recite the exclusion of the use of the system

resource as a type of resource utilization. Therefore, there is no positively recited basis for the

limitation of "wherein said percentage of usage is independent of use of said system resource

associated with displaying said at least one displayable object".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-3, 5-6, 8-12, 14-15, 17-21, 23-24 and 26-27 are rejected under 35 U.S.C. 102(b)

as being anticipated by Sciammarella U.S. Patent 6,081,266.

Referring to claim 1, 10 and 19, Sciammarella teaches a method, system and program

comprising a graphical user interface (column 1, lines 5-11 and Figure 2), detecting a graphical

characteristic of at least one displayable object within a user interface (detecting a feature of a

graphical object on the display screen, such as the size or location of the graphical object)

(column 1, lines 48-57 and column 2, lines 52-63), wherein the graphical characteristic

represents a percentage usage of a system resource of a computer system in association with said

at least one displayable object (the graphical characteristic of the displayed object is the size of

the graphical object, which represents the percentage usage of a system resource, or the amount

of CPU and screen space utilized by the graphical object; similarly, the size of a graphical object indicates and is determined by the volume of an audible sound represented by that object, which uses differing amounts of system resources such as the speakers/amplifiers and CPU resources, with changes in the volume) (column 3, lines 20-40); and adjusting an audio output of a sound associated with the at least one displayable object to reflect the graphical characteristic, such that the audio output is specified according to a graphical display within the user interface (adjusting the volume of a particular sound associated with the graphical object in correspondence with the characteristic of the graphical object) (column 3, lines 20-40).

Referring to claims 2, 11 and 20, Sciammarella teaches detecting the graphical characteristic of the at least one displayable object, wherein the graphical characteristic comprises a graphical position of the at least one displayable object (user manipulating the position, or location of the graphical object on the screen) (column 2, lines 52-63, column 4, lines 5-18 and column 4, lines 50-67 through column 5, lines 1-10).

Referring to claims 3, 12 and 21, Sciammarella teaches adjusting the audio output of the sound, wherein a positional source of the audio output reflects the graphical position of the at least one displayable object (adjusting the audio output of the sound associated with the graphical object by manipulating the position, or location of the graphical object on the screen) (column 2, lines 52-63, column 4, lines 5-18 and column 4, lines 50-67 through column 5, lines 1-10).

Referring to claims 5, 14 and 23, Sciammarella teaches detecting the graphical characteristic of the at least one displayable object, wherein the graphical characteristic is determined by the percentage usage of a system resource of a computer system in association

with the at least one displayable object, wherein the system resource is at least one central

processing unit (the graphical characteristic of the displayed object is the size of the graphical

object, which represents the percentage usage of a system resource, or the amount of CPU and

screen space utilized by the graphical object; similarly, the size of a graphical object indicates

and is determined by the volume of an audible sound represented by that object, which uses

differing amounts of system resources, such as the speakers/amplifiers and CPU resources, with

changes in the volume) (column 3, lines 20-40).

Referring to claims 6, 15 and 24, Sciammarella teaches adjusting the sound according to

an environmental effect associated with the at least one displayable object (adjusting the volume

of the output sound according to an environmental effect of the graphical object, such as a

change in size or location of the object) (column 3, lines 20-40 and column 4, lines 7-16).

Referring to claims 8, 17 and 26, Sciammarella teaches adjusting the audio output of the

sound according to user audio preferences (the user can drag the graphical object from one side

of the screen to another to adjust the audio balance between the left and right channels) (column

4, lines 50-67 through column 5, lines 1-10).

Referring to claims 9, 18 and 27, Sciammarella teaches adjusting the audio output of the

sound associated with the at least one displayable object to reflect the graphical characteristic,

wherein a positional source of the audio output reflects a position of the at least one displayable

object (adjusting the position source of the audio output, or the balance between the left and right

audio output channels to reflect the corresponding position of the graphical object) (column 4,

lines 50-67 through column 5, lines 1-10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 4, 7, 13, 16, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sciammarella U.S. Patent 6,081,266, as applied to claims 1, 10 and 19 above, and further in

view of Gibson U.S. Patent 5,812,688.

Referring to claims 4, 13 and 22, Sciammarella teaches all of the limitations as applied to

claims 1, 10 and 19 above. Specifically, Sciammarella teaches detecting the graphical

characteristic of the at least one displayable object (detecting a feature of a graphical object on

the display screen, such as the size or location of the graphical object) (Sciammarella: column 1,

lines 48-57 and column 2, lines 52-63). However, Sciammarella fails to explicitly teach the

graphical characteristic comprises a transparency of the at least one displayable object. Gibson

teaches an interface that adjusts the audio output according to graphical characteristics of

displayed objects (correlating selected audio characteristics of the audio signal to selected visual

characteristics of the visual image) (Gibson: column 3, lines 15-24) similar to that of

Sciammarella. In addition, Gibson further teaches detecting the graphical characteristic of the at

least one displayable object, wherein the graphical characteristic comprises a transparency of the

at least one displayable object (using the visual transparence or translucence of graphical objects

to enable multiple sounds from a plurality of objects to be heard simultaneously and distinctly)

(Gibson: column 6, lines 15-20 and column 7, lines 19-30). It would have been obvious to one

of ordinary skill in the art, having the teachings of Sciammarella and Gibson before him at the

time the invention was made, to modify the interface for adjusting the audio output according to

graphical characteristics of Sciammarella to include the characteristic of transparency, as taught

by Gibson. One would have been motivated to make such a combination in order to utilize

visual images of sounds to control and mix all types of sounds, while allowing the sounds to still

be heard distinctly, to achieve a desired sound product.

Referring to claims 7, 16 and 25, Sciammarella teaches all of the limitations as applied to

claims 1, 10 and 19 above. Specifically, Sciammarella teaches adjusting the audio output of the

sound associated with the at least one displayable object (adjusting the volume of a particular

sound associated with the graphical object in correspondence with the characteristic of the

graphical object) (Sciammarella: column 3, lines 20-40). However, Sciammarella fails to

explicitly teach adjusting the audio output of the sound according to a relative z-order position of

the at least one displayable object. Gibson teaches an interface that adjusts the audio output

according to graphical characteristics of displayed objects (correlating selected audio

characteristics of the audio signal to selected visual characteristics of the visual image) (Gibson:

column 3, lines 15-24) similar to that of Sciammarella. In addition, Gibson further teaches

adjusting the audio output of the sound associated with the at least one displayable object

according to a relative z-order position of the at least one displayable object (correlating an

aspect of the audio output signal, such as volume, with the z-location of the sphere in the three-

dimensional graphical space shown in Figures 5 and 7a-7b) (Gibson: column 5, lines 34-44 and

column 6, lines 10-14). It would have been obvious to one of ordinary skill in the art, having the

teachings of Sciammarella and Gibson before him at the time the invention was made, to modify

the interface for adjusting the audio output according to graphical characteristics of

Sciammarella to include the characteristic of the relative z-order position of the object, as taught

by Gibson. One would have been motivated to make such a combination in order to utilize

visual images of sounds to control and mix all types of sounds, while allowing the sounds to still

be heard distinctly, to achieve a desired sound product.

Response to Arguments

5.   Applicant's arguments filed 26 November 2004 have been fully considered but they are

not persuasive.

6.   With regard to claims 1 and 5, the applicant asserts that Sciammarella does not teach a

graphical characteristic that represents a percentage of use of a system resource of a computer

system in association with the displayable object. The examiner respectfully disagrees. The

percentage of use of a system resource of a computer system could include the use of any system

resources such as the CPU, memory, speakers/amplifiers, etc. Sciammarella teaches the

graphical characteristic of the displayed object is the size of the graphical object, which

represents the percentage usage of a system resource, or the amount of CPU and screen space

utilized by the graphical object; in any computer system, performing tasks such as displaying a

graphical object on the screen uses a certain amount of CPU power and changing the size of a

displayed object also uses varying amounts of screen space, both of which are types of resources

of a computer system. Similarly, the size of a graphical object represents the volume of an

audible sound (column 3, lines 19-40); changing the volume of a sound emitted changes the

usages of system sources, such as the speakers and amplifiers used to emit the sound. Therefore,

the displayed graphical characteristic of the size of the displayable object represents the volume

of an audible sound, which represents the percentage of use of a system resource of a computer

system, or the percentage usage of the speakers and amplifiers to emit varying volumes of the

sound.

7.   With regards to claim 6, the applicant states, on page 17 of the remarks, that "the

Examiner equates an 'adjustment in volume' to an 'environmental effect' ". However, in the

rejection of claim 6, the examiner states that Sciammarella teaches adjusting the sound according

to an environmental effect associated with the at least one displayable object (adjusting the

volume of the output sound according to an environmental effect of the graphical object, such as

a change in size or location of the object) (column 3, lines 20-40 and column 4, lines 7-16).

Therefore, the examiner is equating the change in size or location of an object to the

environmental effect, not the adjustment in volume. The applicant asserts that "environmental

effect" by example from the specification, implies sound effects. However, although the claims

are interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the

examiner respectfully asserts that environmental effects, as recited in claim 6, is a broad term

that can represent any number of effects happening in the environment, or surrounding of the

displayable object that adjusts the sound. Sciammarella teaches the environmental effects of the

adjustment in size and location of the displayed object, that adjusts the volume of the sound .

(column 3, lines 20-40 and column 4, lines 7-16).

8.   Therefore, it can be seen that Sciammarella anticipates the subject invention.

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
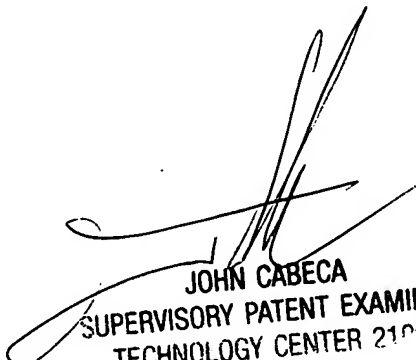
final action.

Conclusion

Any inquiry concerning this communication of earlier communications from the

examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058. The

examiner can normally be reached on Monday - Friday 8:30 am - 6:00 pm.

     If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-4058.

     Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6 January 2005

JOHN CABECA
SUPERVISORY PATENT EXAMINE'
TECHNOLOGY CENTER 21^